Hobbes' Theory of Justice

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Thomas Hobbes was an English philosopher in the Late Sixteenth to Early Seventeenth Centuries and he is best known for his book *Leviathan.* In this book he presents what is commonly referred to as the first 'Social Contract Theory,' rather 'Social Covenant Theory.' He also compares the notions of 'Justice' and 'Injustice' within a state of nature to a state under a sovereign. In this essay, I shall define Hobbes' social theory and provide contextual differences of his view of nature versus a state of a single sovereign government. Lastly, I will provide my contentions with Hobbes' philosophical positions.

Hobbes' social theory is often incorrectly referred to as "Social Contract Theory," where the mistake is in the word "Contract." Hobbes' social theory is more properly known as "Social Covenant Theory." The difference between 'contract' and 'covenant' is that a contract can generally be broken at any point when one side violates their side of the agreement, or the terms or allotted time has been fulfilled; a covenant does not depend on the ending of one side or another, it goes on indefinitely no matter what the other party does. A traditional Western view of a 'covenant' would be like the concept of 'marriage' where "death do us apart," and divorce was next to impossible to void the covenant between the man and woman. Hobbes' theory went further in that no matter what the citizens of a state or

the sovereign do, the Social Covenant continues no matter what either party does. Furthermore, Hobbes upheld a ‘Hypothetical Social Covenant’ theory, where the origin of the sovereign does not matter. So, a foreign military conquering a nation and taking control while becoming the new sovereign is permissible in his philosophy. Under the ‘Historical Social Covenant/Contract’ theories, how sovereign power is first established is imperative to ensure that it was fair, equal, and just. If power was gained by theft, coercion, or murder, etc. then the so-called agreement is invalidated from its origin.

Hobbes’ establishment of a sovereign is, in his view, the stable establishment and ensures Justice for society, or what he calls the “commonwealth.” This sovereign government is to have absolute power with the use of fear for punishment and keeping the commonwealth in good behavior. This idea of an absolute government is presented after Hobbes paints man’s state of nature as being in perpetual warfare and chaos filled with instability. “Whatsoever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other security than what their own strength and their own invention shall furnish them withal. In such condition there is no place for industry… no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short” (L.13). That is to say that without a political society,

according to Hobbes, mankind is constantly living in chaos and should be controlled by a sovereign power.

This portrayal of mankind in a state of nature without a sovereign state is necessary for Hobbes' theory of Justice in that the only alternative available aside from living under the rule of a government is a *miserable* state of nature in which one would surely suffer and die of a harsh existence. So, Hobbes goes on further to suggest that citizens should not question or rise against the sovereign because to do so would either send them back to a state of nature, and/or it undermines the authority and legitimacy of law. This is an example of 'Positive Law Theory' within the constructs of Hobbes' philosophy, meaning whatever the governing body determines is 'law' is to be obeyed blindly and fully as it is viewed as being legitimate due to the source of adjudicated governance. To question the law, in this theory, is to throw away all laws and cast society back into the brutish state of nature portrayed by Hobbes.

Within *Leviathan,* there is a conversation with "The Fool" who questions the concept of 'Justice,' and thinks it may be beneficial to break the Social Covenant for greater personal benefit at various times. Hobbes first maintains that 'Justice' is only found under a strong sovereign government and that always pursuing to follow all laws under that sovereign is to remain just and most reasonable. Hobbes does not think 'Justice' is possible under a state of nature (L. 15).

As far as ‘Justice’ being possible only under a governance, I agree. There must be a unilateral system that agrees on what ‘Justice’ is and how both preventative measures and recompense is to be made. A unilateral system of ‘Justice’ is imperative for the equal treatment of individuals under the law within a social aggregate. I side with ‘Natural Law’ theory in that I believe most of mankind can naturally agree on some basic tenets of ‘Justice’ such as not murdering, not stealing, the concept of private property, personal responsibility, etc. So, I do oppose Hobbes and the concept of ‘Positive Law’ in that I believe our rights are prelegal and are extensions of the virtue of merely being human; just because a law is made by a governing body does not make it legitimate or ‘Just’ simply because of its source of origin alone. Furthermore, I agree with the “Fool” in that there are times to not follow the sovereign in order to pursue personal benefits, e.g. not obeying unjust laws.

When Hobbes only portrayal of the state of nature is chaos and calamity, it is easy to deter people away from ‘Liberty’ into a state of protectionism. I agree that man’s state of nature is poor, hard work, difficult, etc., but it is through society, or “commonwealth,” that we are able to escape such struggles, not through a sovereign state. We progress and maintain peace and “Justice’ when we trade and communicate. I do think a small government is fair and ‘Just,’ but to put all authority solely into the hands of a sovereign body is to cut off the natural ‘Liberty’ we are born to have. Hobbes believes that no one has ‘Liberty’ because we all have it. Yet,

he has no qualms striping away the ‘Liberty’ of the commonwealth while keeping the sovereign in full ‘Liberty’ to determine the course of a state and society. If man’s natural state is chaos because of his ‘Liberty,’ then such also applies to a sovereign- perhaps more so since the sovereign is also given all authority and a monopoly of coercive use of force. In short, to allot ‘Liberty’ only to the sovereign power is to create a dictatorship where the individual is subjected to the arbitrary will of the governing system.

This brings me to the so-called “Social Covenant” or “Social Contract” theory. If there is such, it is ‘negative’ in the sense that I have only to not harm others within society. Additionally, if this said ‘Covenant’ is to be binding to everyone under the sovereign power, even posthumously and as children continue to spawn their own children, or when the sovereign no longer keeps their side of the bargain, it is time to question the position of the sovereign and their sense of ‘Justice’ rather than blindly following. If life is as fragile as Hobbes declared it is in a state of nature, the fragility does not change in a state of sovereign power where the commonwealth can be subjected to nearly any atrocity all because it is deemed legitimate due to its source. To his credit, Hobbes does think a sovereign would not harm or break their side of the covenant; yet, historically speaking, this is an extremely naïve idea.

Work Cited

Westerfeld, Scott, and Keith Thompson. *Leviathan*. Simon Pulse, 2010.